

1-1 By: Birdwell, Kolkhorst, Springer S.B. No. 2424
1-2 (In the Senate - Filed March 10, 2023; March 13, 2023, read
1-3 first time and referred to Committee on Border Security;
1-4 April 4, 2023, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 3, Nays 2; April 4, 2023,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Birdwell	X		
1-10	Flores	X		
1-11	Blanco		X	
1-12	Hinojosa		X	
1-13	King	X		

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 2424 By: Birdwell

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the creation of the criminal offense of improper entry
1-18 from a foreign nation.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Chapter 38, Penal Code, is amended by adding
1-21 Section 38.20 to read as follows:

1-22 Sec. 38.20. IMPROPER ENTRY FROM FOREIGN NATION. (a) In
1-23 this section, "alien" has the meaning assigned by 8 U.S.C. Section
1-24 1101, as that provision existed on January 1, 2023.

1-25 (b) A person who is an alien commits an offense if the
1-26 person:

1-27 (1) enters or attempts to enter this state from a
1-28 foreign nation at any location other than a lawful point of entry;

1-29 (2) eludes examination or inspection by United States
1-30 immigration officers; or

1-31 (3) attempts to enter or obtains entry to this state
1-32 from a foreign nation by an intentionally false or misleading
1-33 representation or the intentional concealment of a material fact.

1-34 (c) An offense under this section is a Class A misdemeanor,
1-35 except that if it is shown on the trial of the offense that the
1-36 person has previously been finally convicted of:

1-37 (1) an offense under this section, the offense is a
1-38 state jail felony;

1-39 (2) a state jail felony described by Subdivision (1)
1-40 or any other felony not listed in Article 42A.054(a), Code of
1-41 Criminal Procedure, the offense is a felony of the second degree; or

1-42 (3) a felony listed in Article 42A.054(a), Code of
1-43 Criminal Procedure, the offense is a felony of the first degree.

1-44 (d) It is an affirmative defense to prosecution under this
1-45 section that:

1-46 (1) the actor has been granted a federal immigration
1-47 benefit entitling the actor to:

1-48 (A) lawful presence in the United States; or

1-49 (B) asylum under 8 U.S.C. Section 1158; or

1-50 (2) the actor's conduct does not constitute a
1-51 violation of 8 U.S.C. Section 1325(a).

1-52 (e) For purposes of Subsection (d)(1), the following
1-53 federal programs do not confer federal immigration benefits
1-54 entitling the actor to lawful presence in the United States:

1-55 (1) the Deferred Action for Parents of Americans and
1-56 Lawful Permanent Residents;

1-57 (2) the Deferred Action for Childhood Arrivals; and

1-58 (3) any program that is a successor to or materially
1-59 similar to a program described by Subdivision (1) or (2).

1-60 (f) A court may not abate the prosecution of an offense
1-61 under this section on the basis that a federal determination

2-1 regarding the immigration status of the actor is pending.
2-2 SECTION 2. It is the intent of the legislature that every
2-3 provision, section, subsection, sentence, clause, phrase, or word
2-4 in this Act, and every application of the provisions in this Act to
2-5 every person, group of persons, or circumstances, is severable from
2-6 each other. If any application of any provision in this Act to any
2-7 person, group of persons, or circumstances is found by a court to be
2-8 invalid for any reason, the remaining applications of that
2-9 provision to all other persons and circumstances shall be severed
2-10 and may not be affected.
2-11 SECTION 3. This Act takes effect July 1, 2023, if it
2-12 receives a vote of two-thirds of all the members elected to each
2-13 house, as provided by Section 39, Article III, Texas Constitution.
2-14 If this Act does not receive the vote necessary for effect on that
2-15 date, this Act takes effect September 1, 2023.

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